

UNITED STATES BANKRUPTCY COURT
DISTRICT OF OREGON

In re

Case No. _____
Amended

Debtor(s)

**Notice of Preliminary Hearing on Motion
[Check One]**

For Use of Cash Collateral

To Obtain Credit

YOU ARE NOTIFIED THAT:

1. The undersigned moving party, _____, filed a motion [check one]
for use of cash collateral.
to obtain credit.

The motion is attached and it includes (1) the statement required by [Local Bankruptcy Form \(LBF\) 541.5, Procedures re: Motions for Use of Cash Collateral or to Obtain Credit](#) and (2) the following allegations:

- a. The immediate and irreparable harm that will come to the estate pending a final hearing is _____

- b. The amount of [check one] cash collateral credit necessary to avoid the harm detailed above prior to the final hearing is _____.
2. The name and service address of the moving party's attorney (or moving party, if no attorney) are: _____

3. A preliminary hearing on the motion, at which testimony will be received if offered and admissible, will be held as follows:

Date: _____ **Time:** _____

Location: Courtroom #_____, _____

Telephone Hearing [See [Local Bankruptcy Form \(LBF\) 888, Telephone Hearing Requirements](#).]

Call In Number: (888) 684-8852

Access Code: 5870400 for Judge David W. Hercher (dwh)
1238244 for Judge Peter C. McKittrick (pcm)
4950985 for Judge Teresa H. Pearson (thp)
3388495 for Judge Thomas M. Renn (tmr)

Video Hearing. To connect, see www.orb.uscourts.gov/video-hearings.

4. If you wish to object to the motion, you must do one or both of the following:
 - a. attend the preliminary hearing.
 - b. file a written response, which states the facts upon which you will rely, with the clerk at 1050 SW 6th Ave. #700, Portland OR 97204 or 405 E 8th Ave. #2600, Eugene OR 97401.

If the response is filed within three business days before the hearing, notify the judge's chambers by telephone immediately after filing the document, as required by Local Bankruptcy Rule 9004-1(b).

5. I certify that on _____ this notice and the motion were served pursuant to Federal Rule of Bankruptcy Procedure (FRBP) 7004 on the debtor(s), any debtor's attorney, any trustee, any trustee's attorney, members of any committee appointed under 11 U.S.C. § 1102 or elected pursuant to 11 U.S.C. § 705 or its authorized agent (or, if no committee in a chapter 11 case, on all creditors listed on the list filed pursuant to FRBP 1007(d)), any creditors' committee attorney, the U.S. Trustee, and all entities with any interest in the cash collateral subject to this motion, whose names and addresses used for service are as follows:

Signature of Moving Party or Attorney

OSB #

(If debtor is movant) Debtor's Address & Last 4 Digits of Taxpayer ID#(s)

Theodore J Piteo, OSB 090311
Michael D. O'Brien, OSB 951056
Michael D. O'Brien & Associates, P.C.
12909 SW 68th Pkwy, Suite 160
Portland, OR 97223
503-786-3800

Of Attorneys for MLK Alberta, LLC, Debtor(s)-in-possession*.

IN THE BANKRUPTCY COURT OF THE UNITED STATES
FOR THE DISTRICT OF OREGON

In re:)	Case No. 22-30019-thp11
)	
MLK Alberta, LLC)	MOTION FOR AUTHORITY TO USE
)	CASH COLLATERAL AND AUTHORITY
)	TO GRANT REPLACEMENT LIEN
Debtor-in-possession.)	

MLK Alberta, LLC, debtor-in-possession, (“Debtor”) moves the court for preliminary authority to use cash collateral and for authority to grant a replacement lien and represents as follows:

1. None of the prohibited provisions listed in LBF 541.5 are included in this Motion or the proposed Order.
2. On January 7, 2022, Debtor filed a voluntary petition for relief under chapter 11 of the United States Bankruptcy Code for the District of Oregon. Debtor continues to maintain possession of its property and operate its business as debtor-in-possession pursuant to Sections 1107 and 1108 of the United States Bankruptcy Code (“the Code.”)

3. Prior to the commencement of this case, Debtor entered into a secured Note agreement with Parkview Financial Fund 2015, LP, which was subsequently transferred to Parkview Financial REIT, LP, (“Parkview”) to assist with the purchase and development of real property (the “Note”). The Note was subsequently secured by a Commercial Deed of Trust attached to the single block of real property which has 3 addresses at 5020 NE MLK Jr Blvd, Portland, Oregon, 433 NE Alberta St., Portland, Oregon and 5017 NE Grand Ave, Portland, Oregon (collectively the “Property”). The Note and Deed of Trust also contained a commercial security agreement covering rents, accounts receivable, and most other business assets (the “Prepetition Collateral”).

4. The security interest of Parkview is superior to those of all other creditors known to Debtor and was perfected by the filing of a Deed of Trust with the Multnomah County Recorder. The Trust Deed was recorded on November 11, 2018, as instrument number 2018-115837. A copy is available upon request.

5. In order to maintain its business operations and protect its ability to reorganize in accordance with chapter 11 of the Code, it is necessary that Debtor obtain the authority provided in 11 USC §363(c)(2)(B) to use cash collateral related to the Property.

6. Debtor requests that this court authorize their preliminary use of cash collateral for the payment of their operating expenses in the normal course of business, as set forth in the monthly budget attached hereto as Exhibit A. The preliminary use of cash collateral requested in Exhibit A would cover projected monthly operating expenses. Debtor requests this court allow use of cash collateral for a 14-day period pending a final hearing on motion to use cash collateral during which time Debtors hope to negotiate a Stipulated Order re: Use of Cash Collateral with the Creditors. Debtor currently has no alternative borrowing source from which it could secure additional funding to operate its business.

7. In order to adequately protect the interests of Creditors in the Prepetition Collateral and for Debtor's use of cash collateral as requested in this motion, Debtor proposes to provide replacement liens pursuant to 11 USC §361(2) to property of the Estate of the kind which presently secure the indebtedness owed to Creditors (the "Post-petition Collateral."). Debtor also proposes to pay monthly adequate protection payments to Creditors as outlined in the attached budget.

8. In the event that the court were to refuse authorization of Debtor's use of cash collateral, Debtor believes it will be unable to maintain its current business operation and propose a plan of reorganization. Without the use of cash collateral, Debtor will be forced to liquidate their collateral for below market value resulting in significant, irreparable harm to Debtor's Estate and its creditors.

WHEREFORE, Debtor requests that this court enter an Order pursuant to 11 USC §363(c)(2)(B) authorizing Debtor to use cash collateral for its general ongoing business operations as described in this motion and the budget attached hereto as Exhibit A in the amount of \$869.69, representing one half of the monthly expense amount, and to grant unto Creditors replacement liens in the Post-petition Collateral effective as of January 7, 2022, and for such other and further relief as the court may deem just and proper.

DATED this 6th day of January 2022.

Respectfully So Moved by:

/s/ Theodore J. Piteo

Michael D. O'Brien, OSB 95105
Theodore J. Piteo, OSB 090311
of Attorneys for Debtor-in-Possession*
*Pending Approval of Employment

MLK Alberta, LLC**Exhibit A**

	Monthly	Current Available Balance(approx):
Average Monthly Income	\$19,143	\$26,013
Estimated Monthly Expenses:	(30 days)	(14 Days)
Insurance	\$344.69	\$344.69
Bank and Wire Fees	\$50.00	\$25.00
Maintainence	\$300.00	\$0.00
Quarterly UST Fees(est. \$325)	\$110.00	\$0.00
Utilities	\$575.00	\$250.00
Adequate Protection Payments*	\$500.00	\$250.00
 Total	 \$1,880	 \$869.69

*Debtor plans to increase this AP payment to the the non-default interest rate accrual on the secured claim on the 90th day after the Order for Relief unless a Plan has been filed

Label Matrix for local noticing

0979-3

Case 22-30019-thp11

District of Oregon

Portland

Fri Jan 7 10:30:01 PST 2022

MLK Alberta, LLC

6931 NE MLK Blvd

Portland, OR 97211-2921

Dept of Justice

Division of Child Support

Attn: Bankruptcy Unit

POB 14670

Salem, OR 97309-5013

IRS

IRS

PO Box 7346

Philadelphia, PA 19101-7346

US Attorney

1000 SW 3rd Ave #600

Portland, OR 97204-2936

US Attorney

US Attorney

1000 SW 3rd Ave #600

Portland, OR 97204-2936

US Attorney General

Department of Justice

1162 Court St NE

Salem, OR 97301-4096

1050 SW 6th Ave. #700

Portland, OR 97204-1160

(p)CITY OF PORTLAND

OFFICE OF CITY ATTORNEY

RM 430

1221 SW 4TH AVE

PORLTAND OR 97204-1991

Citycraft Development, LLC

6716 N Borthwick

Portland, OR 97217-1687

Ellen F. Rosenblum, Attorney General

100 Justice Building

1162 Court St. NE

Salem, OR 97301-4095

Geza Development, LLC

6931 NE MLK Blvd

Portland, OR 97211-2921

Internal Revenue Service

Bankruptcy Notices

PO Box 7346

Philadelphia, PA 19101-7346

Internal Revenue Service

C/O Billy J. Williams, US Attorney

Attn: Civil Process Clerk

1000 SW 3rd Ave., Suite 600

Portland, OR 97204-2936

Lucera Apartments, LLC

6931 NE MLK Blvd

Portland, OR 97211-2921

Meron Alemseghehd

6931 NE MLK Blvd

Portland, OR 97211-2921

Multnomah County -DART

Bankruptcy Department

POB 2716

Portland, OR 97208-2716

Multnomah County Attorney

Suite 500

501 SE Hawthorne Blvd

Portland, OR 97214-3501

Oregon Department Of Revenue

Bankruptcy Notice Dept.

955 Center Street, NE

Salem, OR 97301-2555

Parkview Financial Fund GP, Inc.

c/o its Registered Agent Paul Rahimian

11601 Wilshire Blvd

Suite 2100

Los Angeles, CA 90025-1784

Parkview Financial REIT, LP

11601 Wilshire Blvd

Suite 2100

Los Angeles, CA 90025-1784

Schwabe, Williamson & Wyatt

c/o Atty Craig Russillo

1211 SW 5th Ave Ste. 1900

Portland, OR 97204-3719

US Trustee, Portland

1220 SW 3rd Ave., Rm. 315

Portland, OR 97204-2829

Vanden Bos & Chapman, LLP

319 SW Washington Street, Suite 520

Portland, OR 97204-2690

THEODORE J PITEO

Michael D. O'Brien & Associates

12909 SW 68th Pkwy

Suite 160

Portland, OR 97223-8399

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

City Of Portland
Office Of City Attorney
1221 SW Fourth Avenue, Room 430
Portland, OR 97204

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)ODR Bkcy
955 Center NE #353
Salem, OR 97301-2555

(d)US Attorney General
Department of Justice
10th & Constitution NW
Washington, DC 20530-0001

(u)Charlene Hiss

(u)SMGNine Placeholder
, OR

End of Label Matrix	
Mailable recipients	26
Bypassed recipients	4
Total	30